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SIPDIS

DEPT FOR CA/OCS/CI M. BERNIER-TOTH

DEPT PLEASE PASS TO OFFICES OF REPS. CAMP AND DELAHUNT  
ALSO PLEASE PASS TO JOE CUDDIHY AT DHS HQS

MEXICO FOR DHS OSCAR LUJAN

E.O. 12958: N/A

TAGS: [KOCI](#) [CVIS](#) [CASC](#) [PREL](#) [OVIP](#) [PGOV](#) [GT](#)

SUBJECT: SCENESETTER FOR FEBRUARY 4-6 NODEL VISIT OF  
REPRESENTATIVES CAMP AND DELAHUNT

1. Summary: Your visit, only three weeks after Oscar Berger assumed the presidency, will draw fresh attention to the emotional issue of international adoptions in Guatemala. Your Guatemalan interlocutors will also be anxious to discuss unrelated issues such as the rapidly evolving trade relationship, U.S. assistance in the war on drugs, the proposed United Nations investigative unit against organized crime (CICIACS), and protection for Guatemala immigrants in the U.S. End Summary.

#### The Adoptions Issue

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2. Guatemala has been unable to establish a transparent and credible legal system for adoptions. Persistent charges of coerced and paid relinquishment plague Guatemala's current notarial adoption system, in which private attorneys represent the biological parents, the adopting parents and the child. Under this system, the government has no supervisory role during the initial act of relinquishment of the child by the birth mother. After the attorney takes custody of the child and matches the child with the adopting parents, he presents the case to the Guatemalan and U.S. governments for approval. At this point, it is emotionally devastating for the adopting parents if the authorities have reason to question the match; it is much worse in the instances when they try to dissolve it.

3. In recent years, several countries have suspended adoptions, among them Canada, the Netherlands and the UK, but the U.S. instituted DNA testing and birth mother interviews to continue processing adoptions and to try to ensure they are legitimate. These procedures have solved the problem of confirming the biological link between the mother and child, but they are less reliable in determining the true circumstances of the relinquishment.

4. The Guatemalan government's attempt to implement the Hague Convention on Intercountry Adoption in 2003 failed when the nation's highest court ruled that Guatemala's accession to the Convention was unconstitutional. There is now reform legislation pending in the Congress, consistent with the Convention, which would require the biological mother to relinquish the child under the supervision of a family court judge and the Department of Social Welfare. A powerful adoption attorney lobby has thwarted reform for years, however, and evolving alliances in the new Congress mean passage is not a sure thing.

5. We have consistently emphasized the U.S. government's support for legitimate adoptions in Guatemala, our concern for reducing the vulnerability of everyone involved to charges of adoption fraud, and the U.S. government's own commitment to legitimate adoptions through implementation in 2005 of the international community's agreed-upon solution to the adoption issue: the Hague Convention on Intercountry Adoption.

#### Trade (CAFTA) and the Economy

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6. Former Mayor of Guatemala City and businessman Oscar Berger believes in free trade and is a strong supporter of U.S. Central America Free Trade Agreement (CAFTA). He is concerned, however, that the previous government negotiated poorly and/or deliberately to the disadvantage of businesses that supported his campaign. Guatemala has the largest and most diversified economy in Central America, but it

also suffers one of the hemisphere's highest levels of poverty and income inequality. Most of the poverty is concentrated among the rural, indigenous population, contributing to social and political tensions. Guatemala's traditional agricultural sectors have fared poorly in recent years, with low world prices for coffee undermining what was once the country's leading export crop. Low coffee prices have also sharply reduced the availability of seasonal jobs that many subsistence farmers depend upon for a cash income. On a more positive note, exports of nontraditional products such as fruits, vegetables, flowers and foliage have shown relatively strong growth in recent years, as have exports of apparel from the maquila industry and income from tourism. Family remittances of nearly \$2 billion per year (!) have become the country's largest source of foreign exchange. Berger understands the potential CAFTA has to transform the Guatemala economy through transparent rules and dispute resolution mechanisms that have been lacking and need to be implemented in order to attract investment and create jobs.

#### Anti-drug Cooperation

17. The Berger Administration shares our commitment to reducing drug trafficking and consumption and we expect them to be good partners in the anti-drug effort. A U.S.-Guatemala binational working group on drug trafficking meets regularly to establish goals and resolve problems. Recent advances in cross-border anti-drug cooperation with Mexico show promise for denying drug traffickers free access to remote areas of northern Guatemala. Working with the U.S., the Guatemalan anti-drug police developed operational plans for intercepting drug-laden aircraft that resulted in the seizure of more than 9,000 kilograms of cocaine in 2003. In the first month of 2004, more than 1,000 kilograms were seized.

18. In spite of these successes, the Guatemalan anti-drug effort faces real problems. Lack of anti-conspiracy laws and other law enforcement tools make it extremely difficult to arrest trafficking organizations' major players. Drug-related corruption is a constant threat to law enforcement and the judiciary. Lack of in-country resources and U.S. prohibitions on assisting the Guatemalan military (which ferry the police and prosecutors to an interdiction site but do not otherwise participate) limit the availability of aircraft and equipment needed to interdict drug flights and carry anti-drug police to remote landing sites. Nonetheless, Guatemala's interdiction effort is much stronger now than it was between 2000 and early 2003, and we look forward to an increasingly successful anti-drug partnership.

#### CICIACS

19. Organized crime, especially in areas such as narcotrafficking, alien smuggling, trafficking in persons, and contraband, thrives in Guatemala. On January 7, the U.N. and the Guatemalan Government agreed to establish CICIACS, a Spanish acronym for the Commission on Investigation of Illegal Bodies and Clandestine Security Apparatuses, to investigate human rights cases, corruption, drugs and organized crime. This unprecedented initiative gives the U.N.-run commission independent authority to investigate and prosecute cases within the Guatemalan judicial system. CICIACS enjoys support from both the outgoing and incoming administrations, but the new Guatemalan Congress must ratify it. We have also been strong supporters of CICIACS. Although it will cost 10 to 12 million U.S. dollars per year, CICIACS could well obviate a "Plan Guatemala" 3 to 5 years from now.

#### Guatemalan Migrants

10. Top officials in the Berger government are keenly interested in President Bush's proposed immigration reform and are well aware that the U.S. Congress plays a key role in defining who may benefit. We have been pointing out that debate on immigration reform in an election year will be robust and the initiative will be subject to change. You may be asked about extending the special immigration benefits of Temporary Protected Status (TPS) to Guatemalans, which we have discouraged the Guatemalans from thinking is in the cards. El Salvador and Honduras do benefit from TPS and the issue has acquired some importance for the Berger government, as Berger visited a number

of migrant communities in the U.S. during his campaign and pledged to press their concerns.

HAMILTON